IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 15TH NOVEMBER 2007 / 24TH KARTHIKA 1929

Bail Appl..No. 6590 of 2007()

CRIME NO. 247/07 OF PARASSALA POLICE STATION

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PETITIONER/ACCUSED

MRS.VIJI PRASAD, D/O.SUMATHY,
KUMBHAM VILA VEEDU, KUMBHADI MUKKU,
AARAYOOR, PARASUUVAIKKAL P.O., NEYYATTINKARA.

BY ADV. SRI.G.SUDHEER

RESPONDENTS: COMPLAINANT

STATE OF KERALA, REPRESENTED BY
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. GIKKU JACOB

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 15/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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B.A.No. 6590 of 2007

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Dated this the 15th day of November, 2007

O R D E R

Application for anticipatory bail. The petitioner, a woman, faces allegations for offences punishable, inter alia, under Section 408 and 477A I.P.C. She was employed as the Manager/Accountant of the defacto complainant, a woman. Three months after the petitioner left the services of the defacto complainant, the defacto complainant filed a complaint before the Superintendent of Police alleging commission of offences by the petitioner, her former employee. The circumstances under which such complaint was filed is narrated in detail in such complaint. A Chartered Accountant was appointed to go into the accounts and it was only then that the gross misappropriation of amount and falsification of accounts were revealed. Crime has been registered. Investigation is in progress. The petitioner apprehends imminent arrest.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. The belated complaint cannot inspire confidence of the court. The defacto complainant appears to be influential with the police and that is why the defacto complainant has filed the complaint before the Superintendent of Police and not before the local police. The learned counsel for the petitioner points out that the father of the defacto complainant is a senior lawyer of Trivandrum.

3. The learned Prosecutor opposes the application. He submits that the investigation conducted so far clearly points to the complicity of the petitioner. The petitioner has herself admitted the liability substantially, it is urged.

4. I have considered all the relevant inputs. At the request of the court the case diary was placed before me. I have perused the same. At this early stage of investigation I shall not embark on any detailed discussion on merit about the acceptability of the allegations raised or the credibility of the data collected. Suffice it to say that on an anxious consideration of all other relevant circumstances, I am unable to perceive any features in this case, which would justify the invocation

of the extra ordinary equitable discretion under section 438 Cr.P.C. in favour of the petitioner. This, I agree with the learned Prosecutor, is a fit case where the petitioner must be directed to appear before the Investigator or the learned Magistrate having jurisdiction and then seek regular bail in the ordinary course.

5. This application is accordingly dismissed. I may however hasten to observe that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass orders on merits, in accordance with law and expeditiously.

(R. BASANT)
Judge

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